

Jarvis,
Knittle,
McDonald,
MacManus,
Pope,

Terrell,
Upshaw,
Woods,
Woodward.

NAYS—6.

Armistead,
Field,
Garrison,

Lane,
Sinkins,
Stinson,

By leave, Senator Harrison sent up the following committee report:

COMMITTEE ROOM.

AUSTIN, January 21, 1887. }

Hon. T. B. Wheeler, President of the Senate:

Your Committee on Counties and County Boundaries, to whom was referred Senate bill No. 85, an act entitled "An act to establish and organize the county of Mills," have considered the same and instruct me to report it back with recommendation that it do pass.

HARRISON, chairman.

Bill read first time.

Senate bill No. 33, a bill to be entitled "An act to amend Article 746, chapter 11, title 17, of the Penal Code of the State of Texas," was laid before the Senate, read second time, with unfavorable committee report, and,

On motion of Senator Woods,

The committee report killing the bill was adopted.

Substitute House bill No. 5, "An act making an appropriation to defray the contingent expenses of the Twentieth Legislature," was laid before the Senate in its regular order, read second time and passed to third reading.

On motion of Senator Woods,

The constitutional rule requiring bills to be read on three separate days was suspended, and the bill was placed on its passage by the following vote:

YEAS—31.

Abererombie,
Allen,
Armistead,
Bell,
Burgess,
Burney,
Calhoun,
Camp,
Claiborne,
Davis,
Douglass of J,
Douglass of G,
Field,
Frank,
Garrison,
Glascock,

Gregg,
Harrison,
Houston,
Jarvis,
Knittle,
Lane,
McDonald,
MacManus,
Pope,
Sinkins,
Stinson,
Terrell,
Upshaw,
Woods,
Woodward.

NAYS—none.

The bill was read third time, and Passed by the following vote:

YEAS—31.

Abererombie,
Allen,
Armistead,
Bell,
Burgess,
Burney,
Calhoun,
Camp,
Claiborne,
Davis,
Douglass of J,
Douglass of G,
Field,
Frank,
Garrison,
Glascock,

Gregg,
Harrison,
Houston,
Jarvis,
Knittle,
Lane,
McDonald,
MacManus,
Pope,
Sinkins,
Stinson,
Terrell,
Upshaw,
Woods,
Woodward

NAYS—none.

By leave, Senator Douglass of Jefferson introduced a bill to be entitled "An act to amend Article 500, title 15, chapter 3, of the Penal Code of the State of Texas."

Read first time and referred to Judiciary Committee No. 2.

On motion of Senator Terrell,

Senator Houston was excused, on account of important business from attendance upon the Senate yesterday.

On motion of Senator Garrison,

Senator Glascock was excused from attendance to-morrow, on account of importance business.

On motion of Senator Stinson,

The Senate adjourned till 10 o'clock to-morrow morning.

ELEVENTH DAY.

SENATE CHAMBER, }

AUSTIN, TEXAS, January 22, 1887. }

The Senate met pursuant to adjournment.

Lieutenant Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator Garrison,

The reading of the Journal of yesterday was dispensed with.

On motion of Senator Field,

Senator Knittle was excused for today, on account of important business.

On motion of Senator Burney,

Senator Harrison was excused for two hours, on account of sickness in family.

The following communication from Dr. Frank Rainey, Superintendent of the Blind Asylum, was laid before the Senate and ordered printed.

INSTITUTE FOR THE BLIND, }
AUSTIN, January 22, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Please do me the favor to invite the honorable Senators, and the officers of the Senate, to be present at a grand concert, at this institution, Saturday night the twenty-second. The pupils of the school give the concert for the pleasure of the members of the Legislature, who are their guardians and friends. The performance will begin at 8 o'clock p. m., and the exercises will consist of comic dialogues, poetic recitations, classic and comic selections of vocal music, beautiful calisthenic exercises, and recitals on the grand pipe organ. The street cars run within three blocks of the institution.

Yours respectfully,

FRANK RAINNEY,
Superintendent.

PETITIONS AND MEMORIALS.

By Senator Terrell, by request:
Petition from citizens of Dallas county, protesting against the passage of the bucket shop bill.

Ordered to be laid on the table.

COMMITTEE REPORTS.

By Senator Terrell:

COMMITTEE ROOM, }
AUSTIN, January 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Judiciary Committee No. 1, to whom was referred Senate bill No. 2, "An act to restore the civil and criminal jurisdiction to the county court of Live Oak county," have had the same under consideration, and instruct me to report it back with the recommendation that it do pass. The bill seeks to restore the civil and criminal jurisdiction to the county court of Live Oak county.

Respectfully submitted.

TERRELL, Chairman.

Bill read first time.

COMMITTEE ROOM, }
AUSTIN, JANUARY 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Judiciary Committee No.

1, to whom was referred Senate bill No. 45, "An act to amend an act entitled 'an act to amend Article 3603, chapter 10, title 71, of the Revised Civil Statutes of the State of Texas, relating to the hiring of county convicts,'" have had the same under consideration, and instruct me to report it back with the recommendation that it do pass.

The bill seeks to amend the law so that the minimum amount county convicts shall be allowed will be twenty-five cents per day rather than fifty cents per day as at present.

Respectfully submitted,

TERRELL, chairman.

The bill was read first time.

COMMITTEE ROOM, }
AUSTIN, January 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Your Judiciary Committee No. 1, to which was referred Senate bill No. 9, entitled "An act to amend Articles 1770, 1771, 1772, 1773, 1777 and 1780 of the Revised Civil Statutes," have carefully considered the same, and instruct me to report it back with the recommendation that it do not pass.

The bill seeks to change the law regulating escheats.

Respectfully submitted,

TERRELL, chairman.

The bill was read the first time.

COMMITTEE ROOM, }
AUSTIN, January 20, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 4, an act entitled "An act to amend Article 3200, of the Revised Civil Statutes," have carefully examined the same, and instruct me to report it back with the recommendation that it do pass, with the following amendments. The bill provides substantially that legislation shall not run against towns, cities or counties for adverse occupancy of lands.

TERRELL, chairman.

Amendment No. 1, insert word "road" before "street," in line 15.

Amendment No. 2, insert "county" after word "city," in lines 16 and 20.

Bill read first time.

COMMITTEE ROOM, }
AUSTIN, January 20, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Judiciary Committee No.

1, to whom was referred Senate bill No. 66, entitled "An act to amend Article 1631 of the Revised Statutes," have carefully examined the same, and instruct me to report it back with the recommendation that it do pass, with the following amendments given below.

TERRELL, chairman.

Amendment No. 1. Strike out all after the word "costs" in line No. 28, and insert the following: "Which acknowledgment shall be entered in writing on the docket and signed by the persons binding themselves as sureties; provided, no such stay of execution shall be granted unless the party applying therefor shall first file with the justice an affidavit in writing that he has not the money in which to pay such judgment, and that the enforcement of same by execution prior to three months would be a hardship upon him and would cause a sacrifice of his property, which would not likely be caused should said execution be stayed."

The bill was read the first time.

COMMITTEE ROOM, {

AUSTIN, January 21, 1887. }

Hon. T. B. Wheeler, President of the Senate:

Sir—Your Judiciary Committee No. 1, to whom was referred Senate bill No. 59, a bill to be entitled "An act to prevent the impairing of the efficacy or value of mortgages or other contract liens by the death of the makers thereof, or by the death of the persons holding the equity of redemption in such laws," have carefully considered the same, and a majority thereof instruct me to report it back with the recommendation that it do not pass. The bill seeks to change the existing law so that allowances to the widow and children, and for funeral expenses, and expenses of the last sickness of the husband, shall no longer have priority over mortgages executed by the husband.

Respectfully submitted.

TERRELL, chairman.

Bill read first time.

Senator McDonald submitted the following minority report:

COMMITTEE ROOM, {

AUSTIN, January 22, 1887. }

Hon. T. B. Wheeler, President of the Senate:

The undersigned minority of Judiciary Committee No. 1, to whom was

referred Senate bill No. 59, to be entitled "An act to prevent the impairing of the efficacy or value of mortgage and other contract liens by the death of the makers thereof, or of persons holding the equity of redemption in such cases," beg leave to submit the following minority report thereon:

The committee, by unanimous vote, first amended the bill by striking out all that portion which provides that the death of the mortgagor, or person holding the equity of redemption, should not revoke the power of sale. It was thought that in case of death the mortgage debt should be enforced in the probate court. A majority of the committee decided to report adversely on the bill thus amended, and it is upon the amended bill that this minority report is based. The object of the bill is to repeal certain statutes in reference to the settlement of the estates of deceased persons, which, it is true, have been in force for many years, but which in our opinion are plainly violative of right and justice. The statutes referred to have the effect in certain cases of rendering absolutely worthless or greatly impairing the value of a mortgage or other lien that might have been perfectly good when given. This only occurs, of course, in insolvent estates, and results from the operation of these statutes in making a classification of claims and fixing the priority of payment between them and also in providing for an allowance in money of an amount sufficient to support the widow and minor children for one year, and in providing for an allowance of money in lieu of a homestead and other exempted property in cases where the same do not exist in specie. The claims that are given a preference over a mortgage debt by these Statutes are those incurred for funeral expenses, expenses of last sickness, expenses of administration, and expenses incurred in the preservation, safe-keeping and management of the estate. These claims alone might, in an imaginable case, absorb the whole estate and leave nothing for the mortgage debt, but when to their sum are added a monied allowance for a year's support for the widow and minor children, and a monied substitute for a homestead and other exempted property, all of which may be raised by a sale of the mortgaged property and paid in preference to the mortgage debt, the precariousness of a mortgage

or other security in Texas becomes apparent. The bill seeks to remedy this evil, and to make a mortgage or other contract lien what it purports to be, and what it is in all other States and countries except Texas—an absolute and unconditional security that really secures.

We think a mortgage debt occupies as high ground, and is entitled to as much consideration, as a vendor's lien, which is excepted from the operation of the statutes referred to. The lending of money on the faith of property is, in the forum of conscience and equity, as sacred and inviolable a contract as outright purchase and payment. Yet the one is violated and the other is not. The logic of these statutes comes to this: The creditor's property is deliberately appropriated by law to pay the doctor, the undertaker, the administrator's and officer's fees, the year's allowance for the widow and minor children, and a substituted allowance of money in the place of a homestead and other exempted property. Any balance remaining is returned to the creditor.

We believe the principle involved in the bill is right, and that it ought to become the law.

MCDONALD,
HARRISON.

By Senator Frank:

COMMITTEE ROOM, }
AUSTIN, January 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 21, being "An act to amend an act to amend Article 4, title 2, of the Revised Civil Statutes of the State of Texas," approved March 31, 1885, concerning the administration of affidavits, oaths and affirmations, and find the same correctly engrossed.

FRANK, chairman.

COMMITTEE ROOM, }
AUSTIN, January 22, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 36 being an act to be entitled "An act to repeal chapter 45 of the General Laws of the State of Texas," and approved March 15, A. D., 1881, and find the same correctly engrossed.

FRANK, chairman.

COMMITTEE ROOM, }
AUSTIN, January 19, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 18, being "An act to define and fix the liability of joint obligors and their estates," and find the same correctly engrossed.

FRANK, chairman.

By Senator Allen:

COMMITTEE ROOM, }
AUSTIN, January 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Sir—Your Committee on Agricultural Affairs, to whom was referred Senate bill No. 52, the same being a bill to be entitled "An act to provide for the separation of partition or adjoining fences and to prescribe a violation of the provisions of this act," have carefully examined the same, and instruct me to report it back with the recommendation that it do pass, with the following amendments: 1. Amend by inserting after the word "land," in last line of section 2, "and any person failing to comply with the provisions of this section shall be fined in any sum not less than ten dollars nor more than fifty dollars." 2. Amend by inserting after the word "person," on first line, second page, original bill, the following: "Shall give notice in writing."

All of which is respectfully submitted.

ALLEN, chairman.

By Senator Burney:

COMMITTEE ROOM, }
AUSTIN, January 21, 1887. }
Hon. T. B. Wheeler, President of the Senate:

Your Committee on Public Printing, to whom was referred resolution by Senator Woods in reference to the delay in printing list of the standing committees of the Senate, Senate bills and Journals of the Senate, would respectfully report that they have had same under consideration, and instruct me to report as follows:

In pursuance of said resolution we have inquired into the cause of the delay in furnishing the Journal of the Senate, and find the same to be due to a misunderstanding on the part of the State printers as to the time when they were to deliver said Journals; also that the said printers informed the com-

mittee that from and after this date they will furnish same by 8:30 a. m. o'clock each day.

In regard to the delay of the printing of the bills, we find the same to be partly due to the fact of the delay in delivering said bills to said State Printers, and that all bills now in the hands of the printers are printed and ready for delivery, and that all bills will be printed as soon as handed in.

The committee would also further report that the delay in printing lists of standing committees was due to the fact that the printer authorized to do such work has not been furnished with paper by the State Printing Board; but that he will at once furnish 100 copies of lists of committees.

All of which is respectfully submitted.

BURNEY, chairman.

By Senator Calhoun:

COMMITTEE ROOM. }

AUSTIN, January 20, 1887. }

Hon. T. B. Wheeler, President of the Senate:

Sir—Your committee known as Special Drouth Relief Committee, to whom was referred Senate bill No. 74, entitled "An act to relieve the drouth sufferers of Texas, and to make an appropriation therefor," have carefully examined the same, and said committee instruct me to report the same back with the accompanying substitute, and recommend that said substitute do pass.

Said committee further recommend that one hundred and fifty copies of the substitute be printed for the use of the Senate.

All of which is respectfully submitted.

CALHOUN, chairman.

The President gave notice of the signing of S. H. B. No. 5, "An act making an appropriation to pay the contingent expenses of the Twentieth Legislature."

On motion of Senator Abercrombie, Senator Pope was excused till 11 o'clock to-day

BILLS AND RESOLUTIONS.

By Senator Claiborne:

Resolution in regard to the erection of a mechanical and agricultural college for colored youths, from citizens of Galveston.

To the Senate and House of Representatives of Texas in Legislation assembled:

PREAMBLE AND RESOLUTIONS.

Whereas, The colored people of the State of Texas stand greatly in need of scientific instruction in agriculture and the industrial arts, and are shut out of all means of acquiring such knowledge; and

Whereas, The Constitutional convention of 1876, composed of such distinguished citizens of our State as the Hon. L. S. Ross, present executive; Hon. John H. Reagan, Hon. Fletcher S. Stockdale, Hon. W. P. Ballinger, Hon. George McCormick, Hon. Marion Martin, Hon. C. S. West, Hon. John Henry Brown, Hon. N. H. Darnell, and a host of other distinguished citizens, authorizes and directs the Legislature to establish an agricultural and mechanical college, so that that the colored people might acquire such knowledge; and

Whereas, The Fifteenth Legislature recognizing the necessity of such an institution, and in pursuance of their constitutional duty, did pass an act entitled "An act to establish an agricultural and mechanical college of Texas for the benefit of the colored youths, and to make appropriations therefor." (chapter 92. Approved August 14, 1876). Therefore, be it

Resolved, That the present Legislature is earnestly requested to make the necessary appropriation to carry into effect the provisions of the law of 1876.

Resolved, That the Senator and Representatives from this district be respectfully requested to use their best exertions to secure the passage of a suitable appropriation to put into effect the law establishing an agricultural and mechanical college for the colored youths of this State.

DAVID GOODIN, President.

C. J. WARING, Secretary.

Referred to Committee on Education.

By Senator Claiborne:

"An act to amend chapter 2, Article 566, of the Revised Statutes."

Referred to Judiciary Committee No. 1.

And a bill to be entitled, "An act authorizing the lending of the department school fund other than now authorized by law."

Referred to Judiciary Committee No. 1.

By Senator Camp:

A bill to be entitled, "An act to amend Article 318, chapter 4, of the Penal Code of the State of Texas."

Referred to Judiciary Committee No. 2.

By Senator Simkins:

A bill to be entitled "An act to amend Articles 3227, 3228, 3229, 3230, 3231, 3232, 3233, 3234, 3235, 3236, 3237, 3238, and adding thereto Articles 3228a, 3228b and 3228c; also substituting Article 3239, and adding Article 3240, relating to the local option law.

The bill requires a petition of one-third of the qualified voters for a local option election; requires prescriptions in printed forms, and quarterly reports by physicians and druggists, and that the druggists shall have been two years in business prior to the adoption of the law; that the order declaring the result of the election shall be conclusive in all local option trials; the law to go into force for three years when adopted; the Comptroller to furnish prescription books to clerk; and provided, further, that any objection to the fairness and right of the election shall be heard and determined by the court before declaring result thereof, and a failure to carry a county election in any precinct or town thereof.

Referred to Judiciary Committee No. 1.

The morning call having concluded, and the hour for executive session having arrived,

The Senate went into executive session to consider the appointments of the Governor,

IN THE SENATE.

On motion of Senator Terrell,

The result of the executive session was ordered spread upon the pages of the Senate Journal, and the Governor be notified of such action as follows:

The Senate advises and consents to appointment of W. L. Davidson of Gonzales to be Assistant Attorney General of Texas.

The Senate advises and consents to the appointment of W. P. Hardeman to be Superintendent of Public Buildings and Grounds.

The Senate advises and consents to the appointment of Dr. J. J. Tobin, Judge Z. T. Fulmore, Dr. R. E. Grant, I. G. Searcy and R. S. Harrison, to be Trustees of the Blind Asylum.

The Senate advises and consents to the appointment of Rev. T. B. Lee, Felix E. Smith, C. M. Rogers, B. C. Wells and Edward Christian, to be

Trustees of the Deaf and Dumb Asylum.

The Senate advises and consents to the appointment of Rev. R. K. Smoot, Judge A. M. Jackson, R. M. Castleman, N. O. Lauve and A. Deffenbaugh, to be Trustees of the State Lunatic Asylum.

By Senator Houston, by leave:

A bill to be entitled "An act to create a geological survey of the State of Texas."

Referred to Committee on State Affairs.

By Senator Pope:

A bill to be entitled "An act to amend Article 1063, and repeal Article 1064, Code of Criminal Procedure of the State of Texas."

Referred to Judiciary Committee No. 2.

By Senator Claiborne:

"An act to complete the State capitol, furnish the same," etc.

Referred to Committee on State Affairs.

Senator Calhoun moved to take up substitute Senate bill No. 74, entitled "An act to relieve the drouth sufferers of Texas and to make an appropriation therefor," and make it special order for Monday after morning call.

Adopted.

By Senator MacManus, by leave:

"An act to validate the purchase of certain sections of school lands by Pierce Johnson."

Referred to Committee on Public Lands and Land Office.

By Senator Claiborne:

A bill to be entitled "An act to amend chapter 21, of an act of the called session of the Seventeenth Legislature entitled 'an act to further provide for the supervision and management of the construction of the new State capitol building, and to make an appropriation therefor,'" approved May 5, A. D., 1882.

Referred to Committee on State Affairs.

By Senator Abernethy:

A bill to be entitled "An act authorizing wills and testaments and testamentary instruments of any character which have been probated in any other State or Territory of the United States, to be recorded as muniments of title to real property in this State conveyed thereby."

Referred to Judiciary Committee No. 1.

On motion of Senator Claiborne,

The Sergeant at Arms, Mr. Hennesy, was excused till Tuesday.

On motion of Senator Gregg,
The Senate adjourned till 10 o'clock
Monday morning.

TWELFTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, January 24, 1887. }
The Senate met pursuant to ad-
journment.

Lieutenant Governor Wheeler in the
chair.

Roll called.

Quorum present.

Prayer by the Chaplain, Dr. Smoot.

On motion of Senator MacManus,

The reading of the Journal of Sat-
urday was dispensed with.

Senator Terrell asked to have the
Journal corrected, to substitute the
word "limitation," for the word "leg-
islation" in the report of Judiciary
Committee No. 1, on Senate bill No. 4,
on page 2, of the Journal. (Journal
corrected.)

Senator MacDonald asked to have
the Journal corrected to substitute the
words "bill thus" for the words "line
two." in the minority report on Senate
bill No. 59, in fourth line from bot-
tom of page 2, and to strike out the
word "the" in fifth line from top of
page 3, and to strike out the
word "nominal" and insert the word
"monied" about half way down first
column of page 3, in the same report.
(Journal corrected.)

These errors were all misprints.

PETITIONS AND MEMORIALS.

By Senator Burney:

Petition from the citizens of Medina
county, asking that they be relieved
of taxes for the year 1886.

Referred to Committee on State
Affairs.

By Senator Douglass of Grayson:

Petitions from citizens of Cooke and
Grayson counties, protesting against
the bill reducing rates charged by tele-
phone companies.

Referred to Committee on Internal
Improvements.

By Senator Houston:

Petition of county court of Montague
county, in reference to drouth sufferers.

Referred to Special Drouth Relief
Comm ttee.

And, petition of Wm. Kimball, a sol-
dier of the Texas revolution.

Referred to Committee on Finance.

COMMITTEE REPORTS.

By Senator Bell:

COMMITTEE ROOM, }
AUSTIN, January 22, 1887. }
Hon. T. B. Wheeler, President of the
Senate:

Sir—Your Judiciary Committee, to
whom was referred Senate bill No. 40,
the same being 'A bill to be entitled
an 'act to amend chapter 18 of the Re-
vised Civil Statutes', by adding thereto
Article 1379a, as to filing statement of
facts in cases on appeal,' have care-
fully examined the same, and instruct
me to report it back to the Senate,
with the recommendation that it do
pass. The object of the bill is to give
the Supreme Court, or Court of Ap-
peals, discretionary power to permit a
statement of facts to remain as part of
the record in cases on appeal, where a
party to the suit shows that he has
used due dilligence, and has failed to
get the approval and signature of the
judge in the time prescribed, and that
the failure was not the fault of the
party or his attorney.

All of which is respectfully submit-
ted.

BELL, chairman.

Bill read first time.

COMMITTEE ROOM, }
AUSTIN, January, 22, 1887. }
Hon. T. B. Wheeler, President of the
Senate:

Sir—Your Judiciary Committee No.
2, to whom was referred Senate bill
No. 84, the same being "A bill to be
entitled an act to repeal Articles 318
and 319, title 9, chapter 4, of the Penal
Code of the State of Texas, amend
Articles 320 and 321 of said chapter
and title," have carefully examined the
same, and instruct me to report it back
to the Senate with the recommenda-
tion that it do not pass.

The bill seeks to repeal the law
which prohibits the carrying of pistols
in the open country, away from public
places, and to increase the fine for car-
rying a pistol into any sort of public
place punishable by fine of not less
than \$50, nor more than \$500, in ad-
dition to which he may be confined in
the county jail for any time not ex-
ceeding six months.

All of which is respectfully submit-
ted.

BELL, chairman.

Bill read first time.